

LEBOEUF, LAMB, GREENE & MACRAE
L.L.P.

A LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

NEW YORK
WASHINGTON, DC
ALBANY
BOSTON
DENVER
HARRISBURG
HARTFORD
HOUSTON
JACKSONVILLE
LOS ANGELES
NEWARK
PITTSBURGH
SALT LAKE CITY
SAN FRANCISCO

260 FRANKLIN STREET
BOSTON, MA 02110-3173
(617) 748-6800
FACSIMILE (617) 439-0341

LONDON
(A LONDON-BASED
MULTINATIONAL PARTNERSHIP)
PARIS
BRUSSELS
JOHANNESBURG
(PTY) LTD
MOSCOW
RIYADH
(AFFILIATED OFFICE)
TASHKENT
BISHKEK
ALMATY
BEIJING

August 21, 2002

BY HAND DELIVERY

Mary L. Cottrell, Secretary
Department of Telecommunications and Energy
One South Station
Boston, Massachusetts 02110

Re: Fitchburg Gas and Electric Light Company, D.T.E. 02-24/ D.T.E. 02-25

Dear Ms. Cottrell:

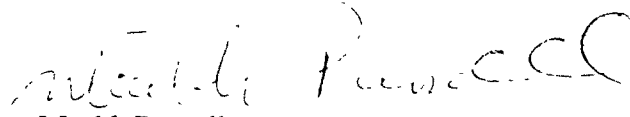
Enclosed for filing on behalf of Fitchburg Gas and Electric Light Company, please find an original and eight copies of a Motion for Protective Treatment for proprietary materials concerning FG&E's customers, provided as part of discovery in this proceeding in response to AG-RR-15.

Per the Ground Rules issued by the Hearing Officer in this proceeding, I have contacted the Office of the Attorney General and the Division of Energy Resources ("DOER") to obtain their assent to the within Motion. The Attorney General has indicated it does not oppose FG&E's motion, but as of the time of filing, the DOER has not responded. I will inform the Department of the DOER's position as soon as possible.

Letter to M. Cottrell
August 21, 2002
Page 2

Thank you for your attention to this matter.

Very truly yours,



Meabh Purcell

Enclosures

cc: Jeannie Voveris, Esq., Hearing Officer
Sean Hanley, Asst. Director Rates and Revenues Requirement Division
Paul E. Osborne, Asst. Director Rates and Revenue Requirement Division
Wilner Borgella, Jr. Assistant Attorney General
Matthew T. Morais, Esq., DOER
Service List

BS81610v1

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

**FITCHBURG GAS AND ELECTRIC
LIGHT COMPANY**

D.T.E. 02-24/02-25

**MOTION OF FITCHBURG GAS AND ELECTRIC LIGHT COMPANY
FOR PROTECTIVE TREATMENT**

NOW COMES Fitchburg Gas and Electric Light company ("FG&E") and hereby requests that the Department of Telecommunications and Energy (the "Department") grant protection from public disclosure of certain confidential, competitively sensitive and proprietary information submitted in this proceeding in accordance with G.L. c. 25, §5D. In support of its Motion, the FG&E:

1. Contemporaneous with this Motion, FG&E is filing its confidential and proprietary response to AG-RR-15 (business information concerning one of FG&E's customers).
2. G.L. c.25, § 5D is specifically designed to protect against disclosure of competitively sensitive information. That provision, in part, provides:

[T]he department may protect from public disclosure, trade secrets, confidential, competitively sensitive or other proprietary information provided in the course of proceedings conducted pursuant to this chapter. There shall be a presumption that the information and the burden shall be upon the proponent of such protection to prove the need for such protection. Where such a need has been found to exist, the department shall protect only so much of the information as is necessary to meet such need.

G.L. c. 25, § 5D.

In determining the existence and extent of such a need, the Department must consider the presumption in favor of disclosure and the specific reasons why disclosure of the

disputed information benefits the public interest. Re Connecticut Light & Power Co., D.T.E. 99-80 (1999); Fitchburg Gas and Electric Light Co., D.T.E. 98-121 (1999); Fitchburg Gas and Electric Light Co., D.P.U. 97-5A, p. 4 (1997), *citing* Berkshire Gas Co., D.P.U. 93-187/188/189/190, p. 16 (1994). The utility must show need by a specific factual demonstration. Id. A mere assertion that a particular document is "competitively sensitive" or otherwise confidential is insufficient to meet that burden of proof. Id.

3. The Department has previously granted protected orders to protect confidential financial information from public disclosure. See Fitchburg Gas and Electric Light Co., D.P.U. 95-75, p. 2 (1995) (protected confidential marginal cost information which reflected company's commercially sensitive market transactions in order to maintain FG&E's competitive position). Also, the Department has granted protective treatment of pricing information in order to avoid alerting power suppliers to a company's strategy, which can weaken the company's bargaining position in negotiating future supply contracts. See Fitchburg Gas and Electric Light Co., D.P.U. 97-5A, pp. 3 and 6 (1997); see also Colonial Gas Co., D.P.U. 96-18, p.4 (1996).

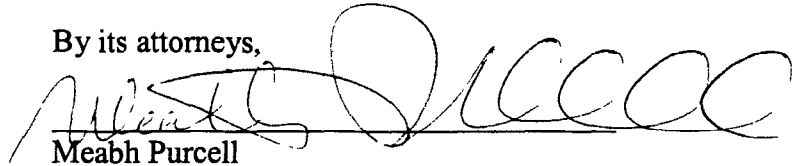
4. In AG RR-15, the Attorney General has requested load and revenue information about FG&E's wholesale customers, as well as their identities. The response to AG-RR-15 should be protected from public disclosure because it contains propriety confidential business information about two of FG&E's wholesale customers, the Massachusetts Bay Transportation Authority ("MBTA") and Pinetree Power Fitchburg, Inc., that would not otherwise be provided to the public. FG&E seeks to protect the MBTA's and Pinetree Power's load and revenue data from public disclosure in order to preserve its customers' privacy. Disclosure on the public record in this proceeding of the details of FG&E's customers' load and usage that is contained in

the responses AG-RR-15 may also provide unfair advantage to FG&E's competitors, particularly in the increasingly competitive energy industry.

WHEREFORE, FG&E respectfully requests that the Department grant its Motion for Protective Treatment as stated herein, and protect from public disclosure any information or materials which may be produced through discovery, which contain confidential, competitively sensitive or proprietary information.

Respectfully submitted,
**FITCHBURG GAS AND ELECTRIC
LIGHT COMPANY**

By its attorneys,

A handwritten signature in black ink, appearing to read 'Meabh Purcell', is written over a horizontal line.

Meabh Purcell

Patricia French

LEBOEUF, LAMB, GREENE & MACRAE, L.L.P.

260 Franklin Street

Boston, MA 02110

617-439-9500 (tel.)

617-439-0341 (fax)

DATED: August 21, 2002

BS82916